

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLIMET N. BRYE,

Defendant.

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CASE NO. 8:11CR331

AMENDED TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report ("PSR") in this case. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The Addendum to the PSR reflects that the government objected to the lack of a 2-level role increase under U.S.S.G. § 3B1.1(c) for being an organizer or leader and for an additional 2-level increase under U.S.S.G. § 2D1.1(b)(14)(A). The Addendum also reflects the Defendant's response. The Probation Officer stated that the matters are left for the Court to resolve. However, the government did not timely file its objections before the Court. (Filing No. 53, ¶ 6.) The Court's general practice is to consider objections waived unless they are filed with the Court as required by the Order on Sentencing Schedule. After the initial Tentative Findings, which erroneously referred to the objections as the Defendant's, the government complied with ¶ 2 of those Tentative Findings and filed a Statement of Position regarding its objections. The government requests an evidentiary hearing.

IT IS ORDERED:

1. The parties are notified that my amended tentative findings are that the PSR is correct in all respects;

2. Unless otherwise ordered, any motion challenging these amended tentative findings shall be resolved at sentencing and, if the party does not raise the issue these Tentative Findings may become final.

DATED this 25th day of May, 2012.

BY THE COURT:

s/ Laurie Smith Camp
Chief United States District Judge